

## **REMARKS**

This is intended as a full and complete response to the Final Office Action dated June 17, 2009, having a shortened statutory period for response set to expire on September 17, 2009. Applicants submit this response to place the application in condition for allowance or in better form for appeal. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-37, 46-53 and 55-74 are pending in the application. Claims 1-37, 46-53 and 55-74 remain pending following entry of this response. Claims 1-2, 4, 8-9, 46 and 61 have been amended. Applicants submit that the amendments do not introduce new matter.

Further, Applicants are not conceding in this application that those amended (or canceled) claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the claimed subject matter. Applicants respectfully reserve the right to pursue these (pre-amended or canceled claims) and other claims in one or more continuations and/or divisional patent applications.

### **Claim Rejections - 35 U.S.C. § 101**

The Office Action states that claims 1, 3, 6-11, 46-53, 55-58 and 70-74 are rejected under 35 U.S.C.101 because the claimed invention is directed to non-statutory subject matter.

The Office Action states that claim 61 is rejected under 35 U.S.C. 101 because the claimed invention is directed to nonstatutory subject matter.

With this response, Applicants have amended independent claims 1, 8, 46 and 61 to recite "executing a fee calculator on a computer processor to calculate, based on the fee schedules, a fee to be charged . . . ." Applicants submit that the claims, as amended, are directed to statutory subject matter. Accordingly, Applicants respectfully submit that the rejection is obviated with respect to independent claims 1, 8, 46 and 61.

Further, Applicants respectfully traverse the rejection with respect to claim 70. Claim 70 recites “displaying, via the one or more user interface screens on an output device, a field-specific access fee for each of the selected fields.” That is, the claim recites the apparatus (i.e., the output device) on which the field-specific access fee is displayed. Thus, Applicants submit that claim 70 is directed to statutory subject matter. Accordingly, Applicants respectfully submit that the rejection is defective and should be withdrawn with respect to claim 70.

#### Claim Rejections - 35 U.S.C. § 112

The Office Action states that claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With this response, Applicants have amended claims 1 and 8 to recite “executing a fee calculator on a computer processor to calculate, based on the fee schedules, a fee to be charged . . . .” Applicants submit that the claims, as amended, are not indefinite. Accordingly, Applicants respectfully submit that the rejection is obviated.

#### Claim Rejections - 35 U.S.C. § 103

Claims 1-37, 46-50 and 55-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Coutts et al* (US 2002/0073066 A1, hereinafter *Coutts*), in view of *Rao et al* (US 2003/0110087 A1, hereinafter *Rao*).

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2141. Establishing a *prima facie* case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.*, 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;

- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Respectfully, Applicants submit that the Examiner has not properly characterized the teachings of the references and/or the claims at issue. Accordingly, a *prima facie* case of obviousness has not been established.

For example, the Examiner suggests that *Coutts*, in view of *Rao*, teaches "each fee schedule for a given logical field defines a fee to be charged when the given logical field is involved in an abstract operation to access a physical entity corresponding to the given logical field" as recited in claim 1. Independent claims 8, 12, 29, 46, 59, 61, 64 and 70 recite similar limitations. Specifically, the Examiner asserts as follows:

*Coutts* does not explicitly disclose that such fee schedule is set up in such a way that "*each fee schedule for a given logical field defines a fee to be charged.*" However, *Rao* discloses that "pricing structures can include different prices for access to different types of data," clearly teaching that as a subscriber accesses different data of different types, each type of data would incur its own corresponding fee in order to form the overall price to be charged to the subscriber. It would have been obvious to one of ordinary skill in the art at the time of invention to combine *Coutts*' data access service, with the pricing structure as taught by *Rao*.

Final Office Action, pages 9-10 (emphasis original). However, *Coutts*, even in view of *Rao*, teaches no such limitation. To illustrate, *Rao* describes "data types" as follows:

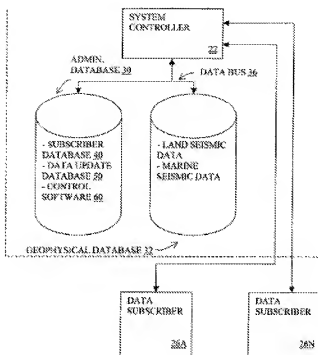


Fig. 1

Geophysical database 32, as described in further detail below, can contain many different types of data including both land and marine seismic data.

...

*Rao*, Fig. 1; ¶ 47 (emphasis added). That is, *Rao* describes a geophysical database 32 that stores different types of data, such as land seismic data and marine seismic data. *Rao* further describes data types as follows:

	34A	34B	34C	34D	34E	34F	34G	34H
	DATA SHOOT ID	DATA DESCRIPTION	DATA PROVIDER & TERMS	COLLECTION DATE	RELATED DATA LINK	DATA USAGE INFORMATION	DATA QUALITY INFORMATION	DATA
33A	GC1	GULF COAST MARINE AREA ABC: 1000 SQUARE MILES: 3D	ABC COLLECTOR: LICENSED UNDER XYZ TERMS & CONSIDITIONS	01/01/1998-03/01/1998	LINK TO UPDATE SHOOT	USAGE INFORMATION BY USER AND DATA UNIT	QUALITY INFORMATION	(LINK TO DATA SET)
33B	ME3	MIDDLE EAST LAND AREA: 1500 SQUARE MILES: 4D	DEF OWNER: PURCHASED UNDER QRS TERMS & CONDITIONS	01/01/1999-06/01/1999	LINK TO COMPETITIVE SHOOT: LINK TO UPDATE SHOOT	USAGE INFORMATION BY USER AND DATA UNIT	QUALITY INFORMATION	(LINK TO DATA SET)

**Fig. 2**

With reference now to FIG. 2 there is shown geophysical database 32 including, for purposes of illustration, two data records 33A, 33B, each having eight data fields 34A-34H. Data field 34A stores a data shoot identifier by which a particular data shoot can be identified. Data field 34B stores information about the data including a geographical location of the data shoot and description of the data contained in the particular linked data set, including for example shoot parameters such as type of data, size of the area, number of lines, identities of particular data sectors contained within the shoot, etc. Data field 34C stores the identity of the provider of the particular data described in the particular record as well as the payment terms relevant to that data provider. Data field 34D stores the date or date range that the data shoot was collected and may optionally include the date on which the data was entered into geophysical database 32, while data field 34E stores any link(s) to related data.

Rao, Fig. 2; ¶ 51 (emphasis added). In other words, Rao discloses setting different prices for data records 33A, 33B based on information stored in a specific data field (i.e., data description 34B) of the data record. For example, a record storing marine seismic data (e.g., storing "MARINE AREA" for the data description 34B) may incur a higher price than would a record storing land seismic data (e.g., storing "LAND AREA" for the data description 34B). Respectfully, Rao fails to teach setting different prices for the different data fields 34A-34H. For instance, Rao does not set any price for the data description field 34B *per se*; Rao also does not set any price for the data provider & terms field 34C; and so on. Thus, Coutts, even in view of Rao, fails to teach or suggest any fee that is specific to a field. In this regard, the Examiner overgeneralization of the

term "data type" (i.e., to refer to different *fields*) is inconsistent with the actual meaning of "data type" as described in *Rao*. Thus, the Examiner has mischaracterized *Rao*. On this basis, the references fail to teach that "each fee schedule for a given logical field defines a fee to be charged when the given logical field is involved in an abstract operation to access a physical entity corresponding to the given logical field." Accordingly, Applicants respectfully submit that the rejection is defective and should be withdrawn.

Therefore, the claims are believed to be allowable, and allowance of the claims is respectfully requested.

Claims 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Coutts*, in view of *Rao*, and further in view of *Lyons et al* (US 4,989,141, hereinafter *Lyons*).

The rejection to claims 51-53 incorporates the rejection to independent claims 46, over *Coutts* in view of *Rao*. As stated above, the rejection to independent claim 46 is believed to be overcome. Accordingly, the rejection to claims 51-53 is also believed to be overcome. Therefore, the withdrawal of the rejection to these claims is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

If the Examiner believes any issues remain that prevent this application from going to issue, the Examiner is strongly encouraged to contact Gero McClellan, attorney of record, at (336) 698-4286, to discuss strategies for moving prosecution forward toward allowance.

Respectfully submitted, and  
**S-signed pursuant to 37 CFR 1.4,**

/Gero G. MCCLELLAN, Reg. #44227/

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